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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,248	03/12/2004	Knecole A. Mitchell	61784	8853

24230 7590 04/06/2006

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EXAMINER	
CAMPBELL, KELLY E	
ART UNIT	**PAPER NUMBER**
3618	

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/800,248	MITCHELL ET AL.	
	Examiner	Art Unit	
	Kelly E. Campbell	3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 13 and 16-18 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 13 and 16-18 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

The amendment filed 1/24/06 is acknowledged.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 13 and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chipperfield (US 5,855,359) in view of Haulotte (US 4,343,379) and Coates (US 4,558,847).

Chipperfield teaches a portable tire and wheel lifting apparatus, see Figure 2, including:

side members (16,17);

pair of lifting arms (56,61) pivotally coupled to the side members and pivotally coupled together intermediate first and second ends.

a pair of ramp members (38,39) mounted on the support members (16,17) via collapsible assembly (14), see Figure 7, wherein the ramp members having a configuration capable of smoothly rolling a tire between a ground surface and said second ends of said lifting arms when said lifting arms are at said retracted configuration, see Figure 7;

a pair of support members (60,66,70) fixedly attached to respective said second ends of said lifting arms for supporting said tire and wheel atop said second ends of said lifting arms;

a pair of rollers (71a,b) mounted to support members (60);

wherein said base and said pair of arms are configured to fit within an automobile tire cavity when said lifting arms are at said retracted configuration.

Chipperfield does not teach a pneumatic cylinder arrangement.

Haulotte teaches a lifting mechanism including:

a wheeled base (1);

a pair of piston cylinder combinations, each piston cylinder combination having a pneumatic cylinder (5,8) pivotally coupled to a respective side member and a lifting arm (7,10) extending from said pneumatic cylinder for relative movement between retracted and extended configurations; wherein each lifting arm (7,10) of said pair of piston cylinder combinations includes a first end received in a respective pneumatic cylinder and a second opposed end,

the lifting arms (7,10) being pivotally coupled together at point (11) intermediate respective first and second ends; wherein said second ends of said lifting arms are configured to support a platform (2); and means for actuating said pair of piston cylinder combinations to move said lifting arms from said retracted configuration to said extended configuration, whereby to elevate said second ends of said lifting arms;

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the lifting arms of the lifting apparatus taught by

Chipperfield to include a pneumatic cylinders for minimizing the manual effort of the user in operating the device and providing smoother lift and lower movements.

Chipperfield modified by Haulotte teach all aspects of the claimed invention except a foot actuated pump and release mechanism.

Coates teaches a means for actuating a piston cylinder (6) to move a lifting arm combination from the retracted configuration to the extended configuration with a foot pump (125,119), see column 5, lines 47-55, operatively connected to the piston cylinder (6), see Figu7re 1 and 7;

further comprising means (128) for releasing the piston cylinder combinations for movement of the lifting arms from said extended configuration to said retracted configuration, see Column 5, lines 47-53;

an air inlet valve (not shown) connected to valve lever (28) in said wheeled base and tubing (127) for connecting the air cylinders to the air inlet valve.

It would have been obvious to one of ordinary skill in the art to provide a foot actuated pump means for minimizing the upper body strength and strain required of the user to operate the lift device and prevent injury.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chipperfield (US 5,855,359) in view of Haulotte (US 4,343,379) and Coates (US 4,558,847as applied to claim 13 above, and further in view of Watkins (US 6,679,479).

Chipperfield modified by Haulotte and Coates teaches all aspects of the invention except then lifting arms having upper and lower offset segments.

Watkins teaches a scissor lift mechanism including lifting arms (42,44) actuated by air cylinders, wherein the arms have an upper segment (48) angularly offset from a lower segment (47).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the lifting arms of the invention taught by Chipperfield modified by Haulotte and Coates, to include an offset upper and lower segment configuration in order to provide more balanced lift as taught by Watkins, see Column 3, lines 2-10.

Response to Arguments

Applicant's arguments filed 1/24/06 have been fully considered but they are not persuasive. With regards to the applicants arguments that Chipperfield does not disclose a pair of rollers rotatable coupled at respective ends of the side rails (16,17) the Examiner respectfully disagrees. Figure 1 of the Chipperfield reference discloses rollers (70,74) attached to the ends of the lifting arms for supporting the tires and indirectly, the tires roll "a top" and above the rollers. The applicant has not disclosed the rollers being in "direct" contact with the tires. The applicant simply discloses the rollers "allowing the tire and wheel to rotate "thereon", which, Chipperfield does teach, by providing a tire disposed on a ramp supported by a roller and arm configuration that "allows" the tire to roll above the roller position.

With regards to applicant's arguments that Chipperfield does not disclose a "pair of ramp members", the Examiner disagrees. Ramp side members (38,39) of the Chipperfield reference, shown in Figure 1, are clearly "Ramp members" and are indirectly mounted to sides of the base via pivoting arms (55). Applicant has not claimed the pair of ramp members in direct contact with the base.

During patent examination, the pending claims must be given their broadest reasonable interpretation consistent with the specification. In re Hyatt, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969) The court explained that "reading a claim in light of the specification, to thereby interpret limitations explicitly recited in the claim, is a quite different thing from 'reading limitations of the specification into a claim,' to thereby narrow the scope of the claim by implicitly adding disclosed limitations which have no express basis in the claim." The court found that applicant was advocating the latter, i.e., the impermissible importation of subject matter from the specification into the claim.). See also In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997)

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelly E. Campbell whose telephone number is (571) 272-6693. The examiner can normally be reached on 9:00-5:30 Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KEC

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